

NICHOLAS A. TRUTANICH
United States Attorney
District of Nevada
Nevada Bar Number 13644

MARK E. WOOLF
Assistant United States Attorney
501 Las Vegas Blvd. So., Suite 1100
Las Vegas, Nevada 89101
(702) 388-6336
Mark.Woolf@usdoj.gov
Attorneys for the United States

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

United States of America,

Plaintiff,

v.

Michael Cernak,

Defendant.

Case No. 2:03-cr-00534-KJD-RJJ

**Stipulation to Unfreeze Funds in Prison
Account**

The parties, through undersigned counsel, hereby submit the following stipulation to unfreeze Defendant Michael Cernak's Inmate Trust Account and resolve other outstanding matters related thereto.

The United States filed its motion for authorization of payment toward restitution from funds in Defendant Cernak's Inmate Trust Account on August 14, 2019. ECF No. 151. After briefing, and conferral between counsel, the Government agreed to withdraw its motion based on the Ninth Circuit's recent, unpublished decision in *United States v. Poff*, 2019 WL 3064444 (9th Cir. July 12, 2019) so that it could conduct additional discovery to determine the source of funds in the account at issue. ECF No. 154. The United States has

1 also filed a non-opposition to Defendant Cernak's motion that his Inmate Trust Account be
2 unfrozen. ECF No. 157.

3 Since filing of the United States withdrawal and non-opposition, it has come to the
4 parties' attention that the Bureau of Prisons, which administers the Inmate Trust Account
5 at issue, has not yet unfrozen the account because it has not yet received a court order or an
6 amended judgment. Accordingly, the parties enter the following stipulation to unfreeze the
7 account and resolve all other pending issues relating to the United States' motion for
8 authorization of payment from Defendant Cernak's Inmate Trust Account.

9 **IT IS HEREBY STIPULATED AND AGREED** that the United States' Motion to
10 Authorize Payment from Inmate Trust Account, ECF No. 151, is hereby **WITHDRAWN**.
11 The withdrawal is without prejudice to the United States refiling the motion at a later time
12 or conducting discovery into the source of funds in Defendant Cernak's Inmate Trust
13 Account.

14 **IT IS FURTHER STIPULATED AND AGREED** that Defendant Cernak's
15 Motion to Unfreeze Funds in Inmate Trust Account, ECF No. 152, is **GRANTED**. The
16 Bureau of Prisons is instructed to unfreeze the account and provide Defendant Cernak full
17 access to the funds therein.

IT IS FURTHER STIPULATED AND AGREED that Defendant Cernak's Motion to Send Copies to the Prison Business Office is **GRANTED**. The Clerk of Court is instructed to send the following ECF entries to the Prison Office at the address identified in Cernak's Motion to Send Copies to the Prison Business Office (ECF No. 158): ECF No. 151, ECF No. 152, ECF No. 154, ECF No. 157, and ECF No. 158. The Clerk of Court shall also send a copy of this Stipulation.

NICHOLAS A. TRUTANICH
United States Attorney

s/ Mark E. Woolf
MARK E. WOOLF
Assistant United States Attorney

IT IS SO ORDERED:

Kent J. Dawson
United States District Judge